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# Staff Report

## Infrastructure & Public Works

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**Report To:** Committee of the Whole  
**Meeting Date:** March 13, 2017  
**Report Number:** CSPW.17.013  
**Subject:** Completion of Mill Street Reconstruction Phase 2  
**Prepared by:** Michael G. Campbell

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### A. Recommendations

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THAT Council receive Staff Report CSPW.17.013 entitled "Completion of Mill Street Reconstruction Phase 2" for their information.

### B. Overview

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Maram Building Corporation (Maram) was retained by the Town for the Mill Street Reconstruction project. Maram did not achieve Substantial Performance of the Work when required by the Contract in 2015. In 2016, after repeated efforts to have Maram complete the project, the Town terminated the contract with cause and made a claim against the Performance Bond to have the work completed and deficiencies corrected. The Town is working with the Guarantee Company of North America (GCNA) to have the work on Mill Street completed in 2017.

### C. Background

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The Town entered into a contract with Maram for Phase 2 of the Mill Street Reconstruction in the spring of 2015. The Contract required that substantial performance be achieved by September 30, 2015. The Contract included a 100% Performance Bond and 100% Labour and Material Payment Bond.

The bulk of the contract work was completed in 2015 but Maram did not achieve Substantial Performance as required and the Town captured liquidated damages in an Owner's Set-off. The surface course asphalt along with correction of deficiencies was anticipated to be completed in the fall of 2016. The Town's contract administrators, CC Tatham and Associates Ltd. (CCTA), attempted to contact Maram in late summer 2016 but there was no response.

The Town contacted GCNA to review the process of claiming against the performance bond to complete the works and correct deficiencies. The Contractor had to be declared insolvent or in breach of the contract before GCNA could take action. The Town terminated the Maram contract due to their lack of response to complete the works and correct deficiencies.

GCNA has a number of options at their disposal to complete the works and correct the deficiencies under the Performance Bond. Due to the small amount of work remaining they have proposed to work in conjunction with the Town to engage a contractor. The Town and CCTA will work with GCNA to find a contractor. Once selected, the Town and GCNA will develop a letter of understanding of the cost to each party. For incomplete work, such as the surface asphalt, the Town will pay the contract unit price and GCNA will pay the extra over. For deficient items, GCNA will pay the full cost.

#### **D. Analysis**

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The 2015 Capital Budget for Mill Street Reconstruction was \$673,000. The project's capital budget was increased to \$723,307 in 2016 as recommended in CSPW.16.047.

The Performance Bond provides some cost protection for the Town. The Town will work with GCNA to select a contractor to complete the work and correct the deficiencies. GCNA will compensate the Town for engineering costs associated with engaging a contractor to complete the work and correct the deficiencies. The Town will hire the contractor. When the work is complete, GCNA will compensate the Town for construction costs that are higher than the original contract unit prices and pay the cost of correcting deficiencies.

#### **Project Budget Analysis**

Current Project Budget	\$723,307
Estimated Final Contract Value (less Owner's Set-off for engineering costs \$500,743 - \$38,366)	\$462,377
Estimated Final Engineering Costs (less costs to be paid by GCNA \$168,192 -\$5,000)	\$163,192
Estimated Final Project Costs for the Town	\$625,569

#### **E. The Blue Mountains Strategic Plan**

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Goal #5: Ensure Our Infrastructure is Sustainable

#### **F. Environmental Impacts**

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None

#### **G. Financial Impact**

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Staff are expecting this project to come in under budget as outlined above.

## **H. In consultation with**

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Sam Dinsmore, Manager of Accounting and Budgets  
Serena Wilgress, Manager of Purchasing and Risk Management

## **I. Attached**

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None

Respectfully submitted,

***Michael Campbell***

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Michael Campbell, C.E.T.  
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***Reg Russwurm***

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